

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14040, of National Permanent Bank, FSB, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.44 to continue the use of a parking lot in an R-4 District at the premises 4201 Fessenden Street, N.W., (Square 1669, Lots 26 and 27).

HEARING DATE: September 28, 1983

DECISION DATE: September 28, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located at the northwest corner of the intersection of 42nd and Fessenden Streets, N.W. and is known as premises 4201 Fessenden Street, N.W. It is in an R-4 District.

2. The site is bounded by a ten foot alley to the north, Fessenden Street, N.W. on the south, 42nd Street, N.W. on the east, and on the west by an existing bituminous parking lot and savings and loan branch facility owned by National Permanent. Said parking lot and branch facility are constructed on Lot 36 in Square 1669 which is zoned C-2-A. The subject property itself is in an R-4 District.

3. By Order dated July 29, 1974, the Board granted application No. 11450 of National Permanent Savings and Loan Association, now known as National Permanent Bank, F.S.B., for permission to establish a parking lot on the subject property pursuant to Paragraph 3101.48 of the Zoning Regulations, the subject property then being in an R-2 District, vacant and unimproved. Said Order was granted conditionally for a period of five years. By Order No. 12996, dated November 16, 1979, the Board granted permission to the applicant to continue the operation of the subject parking lot for a period of four years.

4. The existing parking lot on the subject property, which National Permanent proposes to continue, is contiguous with National Permanent's parking facilities on Lot 36 in the C-2-A District, and together forms one parking lot.

5. There are thirty-two spaces in the entire parking lot, six of which are reserved specifically for National Permanent's customers. The remaining spaces are for use by the applicant's employees and monthly contract users. The number of such monthly contracts varies slightly from time

to time. Generally, approximately fifteen spaces are leased to users on a monthly basis. The monthly users consist mainly of nearby commercial entities or their employees, such as Stuart and Maury, Inc., Western Exterminating Company, and York Flowers, Inc. Further, worshipers at the Armenian Apostolic Church, directly across 42nd Street, N.W., are permitted to use the parking lot without charge while attending church services.

6. The applicant now seeks a further extension to continue the operation of the parking lot through a special exception under Paragraph 3104.44.

7. Paragraph 3104.44 of the Zoning Regulations provides that a parking lot is permitted if:

- A. All provisions of Article 74 are complied with;
- B. No commercial advertising signs shall be permitted outside any building located thereon, except one advertising the rates as required by the Police Regulations of the District of Columbia;
- C. No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use; the present character and future development of the neighborhood will not be affected adversely; and the parking lot is reasonably necessary and convenient to other uses in the vicinity; and,
- D. Before taking final action on an application for such use, the Board shall submit the application to the District of Columbia Department of Transportation for review and report.

8. Parking in the area in general is inadequate for the number of office and commercial establishments located there. There is no parking on Wisconsin Avenue from 7:00 to 9:00 A.M. or from 4:00 to 6:00 P.M. The only other parking on Wisconsin Avenue is metered parking.

9. The requirements governing the physical operation of a parking lot in an R-4 District have been and are currently being met, as are the conditions listed in the Board's prior Order No. 12996.

10. There is no building on the subject property and no commercial advertising signs thereon.

11. Entrance and exit to the lot is from Fessenden Street.

12. The hours of operation of the lot are from 9:00 A.M. to 4:00 P.M. Monday through Friday and from 9:00 A.M. to 1:00 P.M. on Saturday. The lot is unchained and is open at night. Patrons for the nearby restaurants and movie house use the parking lot from time-to-time.

13. The maintenance of the lot is done through private contract. There is also periodic inspection of the lot to determine that the monthly contract parkers are protected and there is no unauthorized parking. The operator of the lot has received no complaints about the operation and maintenance of the parking lot.

14. The Department of Transportation, by memorandum dated August 24, 1983, reported that the DOT investigation determined that the existing parking lot is in good condition, is well landscaped and screened from all adjacent residential properties, and serves the parking needs of the National Permanent Bank, which is located on the same lot as the parking facility in question. If this parking lot were discontinued, parking spillover would adversely affect the surrounding residential neighborhood. Therefore, DOT had no objection to the continuation of this use. The Board concurs with the reasoning and recommendation of the DOT.

15. Advisory Neighborhood Commission 3E made no recommendation on the application.

16. There was one letter in the file in support of the application on the grounds that the lot is necessary for the neighborhood and the bank patrons. It was further noted that the lot was clean and never crowded.

17. There was no opposition at the public hearing or on file.

18. The applicant advised the Board that it is contemplating the installation of a drive-in window on the C-2-A section of the parking lot that would be located on the north side of its branch building. Access would be from the existing entrance drive on Fessenden Street through the lanes of the subject parking lot. Exit would be through a new curb cut on Wisconsin Avenue. Such a curb cut is subject to the approval of the Department of Transportation. The Board notes that the drive-in window issue is not properly before it. It appears that if the window is installed in the C-2-A area it can be permitted as a matter-of-right. If exiting is through the public alley and not Wisconsin Avenue, the matter will come before the BZA to determine what impact, if any, this would have on the site plans and layout of the subject parking lot now before the Board.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires compliance with the requirements of Paragraph 3104.44 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof. The Board further concludes that the application can be granted as in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversely the use of neighboring property. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- a. Approval shall be for a period of FOUR YEARS from the date of expiration of the previous approval, namely from July 29, 1983.
- b. The parking layout and landscaping shall be as shown on the site plan marked as Exhibit No. 6 of the record.
- c. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- d. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- e. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- f. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
- g. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
- h. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 4-0 (Carrie Thornhill, Maybelle T. Bennett, William F. McIntosh and Douglas J. Patton to grant; Charles R. Norris not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: DEC 23 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

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